


LEGISLATIVE FILE

File ID No. 14-0404
Introduction Date 3-12-2014
Enactment No. 14-0442
Enactment Date 3-12-14
By _____

**OAKLAND UNIFIED SCHOOL DISTRICT
OFFICE OF THE SUPERINTENDENT
March 12, 2014**

TO: Board of Education

FROM: Gary Yee, Ed.D, Acting Superintendent and Secretary, Board of Education
By: Vernon Hal, Deputy Superintendent, Business Operations 
Timothy White, Associate Superintendent for Facilities Planning & Management

SUBJECT: Owner Contingency Construction Budget Transfer Into Lease To Lease Back Agreements Pertaining to the Montclair New Classroom Building Project

ACTION REQUESTED

Approval by the Board of Education of Resolution No. 1314-1041 Owner Contingency Construction Budget Transfer into Lease to Lease Back Agreements Pertaining to the Montclair New Classroom Building Project, in the amount of \$350,000.00 for the Montclair New Classroom Building Project ("Project") #07050, increasing the Guaranteed Project Cost (GPC), for reasons stated herein, from \$15,039,744 to \$15,389,744.

BACKGROUND

The Lease Leaseback delivery method construction documents, file I.D. # 12 -10806, was approved by the Board of Education on March 28, 2012 in the amount of \$15,039,744. The Guaranteed Project Cost ("GPC") for the Project submitted by the Developer, West Bay Builders / CAS Financial and Construction, Inc. JV ("Developer") was \$15,389,744, and contained a line item for owner contingencies ("Owner Contingency") in the amount of \$350,000. The Owner Contingency was inadvertently omitted from the GPC that was approved by the Board of Education. Staff is requesting that the Board of Education approve a transfer of funds from the existing budget for the Project to increase the GPC to include the Owner Contingency of \$350,000 that was omitted from the original GPC.

The redistribution of the Project budget will result in the following GPC and contingency changes:

Under Article 2.1.6 of Exhibit C to the Facilities Lease, the Owner Contingency is for the exclusive use of the District for additional owner generated Project costs and unforeseen conditions is listed as \$350,000. The transfer will increase the District Allowance from \$0 to \$350,000.

FISCAL IMPACT: None, as the Owner Contingency that was contemplated under the original GPC is simply being transferred from the Project Budget to the Lease Leaseback Construction Budget.

RECOMMENDATION:

Approval by the Board of Education of Resolution No. 1314-1041 Owner Contingency Construction Budget Transfer into Lease to Lease Back Agreements Pertaining to the Montclair New Classroom Building Project, in the amount of \$350,000.00 for the Montclair New Classroom Building Project ("Project") #07050, increasing the Guaranteed Project Cost (GPC), for reasons stated herein, from \$15,039,744 to \$15,389,744.

**BOARD OF EDUCATION
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 1314-1041**

**APPROVAL OF OWNER CONTINGENCY CONSTRUCTION BUDGET TRANSFER INTO LEASE TO
LEASE BACK AGREEMENTS PERTAINING TO THE MONTCLAIR NEW CLASSROOM BUILDING
PROJECT**

WHEREAS, the Board approved (Resolution No. 1112-0199) (Enactment No. 12-0921) on March 28, 2012, the Lease Leaseback Method of Construction Delivery for the Montclair New Classroom Building Project and authorized the execution of Site Lease Agreement, Facilities Lease Agreement and Other Acts Relating to the ("the Project") with West Bay Builders / CAS Financial and Construction, Inc. JV ("Developer") for the Guaranteed Project Cost of \$15,039,744; and

WHEREAS, the Guaranteed Project Cost for the Project submitted by the Developer was \$15,389,744, and contained a line item for owner contingencies ("Owner Contingency") in the amount of \$350,000; and

WHEREAS, the Owner Contingency was inadvertently omitted from the Guaranteed Project Cost that was approved by the Board of Education on March 28, 2012.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the transfer of the Owner Contingency in the amount of \$350,000 into the Guaranteed Project Cost which will increase in the approved Guaranteed Project Cost from \$15,039,744 to \$15,389,744, as was the original intention of the parties.

PASSED AND ADOPTED by the Board of Education the Oakland Unified School District, this 12th day of March, 2014, by the following vote:

AYES: Jody London, Jumoke Hinton Hodge, Anne Washington, Roseann Torres,
Christopher Dobbins, Vice President James Harris and President David Kakishiba

NOES: None

ABSTAINED: None

ABSENT: None

CERTIFICATION

I, Gary Yee, Acting Superintendant and Secretary of the Board of Education of the Oakland Unified School District, Alameda County, State of California, do hereby certify that the foregoing Resolution was duly approved and adopted by the Board of Education of said district at a meeting thereof held on the 12th day of March, 2014, with a copy of such Resolution being on file in the Administrative Office of said District.



Gary Yee, Ed.D, Acting Superintendent and
Secretary, Board of Education

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